

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

OPERATING ENGINEERS LOCAL 139
HEALTH BENEFIT FUND,
CENTRAL PENSION FUND OF THE
INTERNATIONAL UNION OF OPERATING ENGINEERS
AND PARTICIPATING EMPLOYERS,
WISCONSIN OPERATING ENGINEERS
SKILL IMPROVEMENT AND APPRENTICESHIP FUND,
JOINT LABOR MANAGEMENT WORK PRESERVATION FUND,
TERRANCE E. MCGOWAN, AS A TRUSTEE OF SAID FUNDS
EXCEPT CENTRAL PENSION FUND,
MICHAEL FANNING AS CHIEF EXECUTIVE OFFICER
OF CENTRAL PENSION FUND, and
INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 139,

Plaintiffs,

v.

Case No. 17-cv-541-pp

ADKINS CONTRUCTION, INC.

Defendant.

**ORDER GRANTING PLAINTIFFS'
MOTION FOR DEFAULT JUDGMENT (DKT. NO. 11)**

On July 13, 2017, the plaintiffs moved for entry of default against the defendant, and filed their proof of service. Dkt. No. 7. That same day, the clerk of court entered default, and the plaintiffs since have filed a motion for entry of judgment under Rule 55(b)(2). Dkt. No. 11.

In support of their motion that the court grant judgment in their favor, the plaintiffs assert that they conducted an audit of the defendant's books, which showed that the defendant was delinquent in making contributions to

the plaintiff funds. Dkt. No. 11 at 2; Affidavit of Rita Becker, Dkt. No. 16; Dkt. Nos. 16-1 through 16-9. The court finds that the plaintiff has established a *prima facie* case against the defendant.

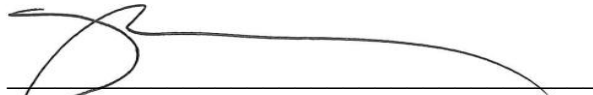
Once a plaintiff has established liability on default, the plaintiff still must establish entitlement to the relief requested. In re Catt, 368 F.3d 789, 793 (7th Cir. 2004). The plaintiffs seek a total award of \$392,647.26, which includes the following items: delinquent fringe benefit contributions in the amount of \$224,021.14; delinquent payment assessments in the amount of \$140,202.65; and interest in the amount of \$28,423.47. Dkt. No. 12. The plaintiffs have submitted audit reports to the defendant's books and records for the periods of January 1, 2012 through July 31, 2014; August 1, 2014 through July 31, 2015; and August 1, 2015 through February 29, 2016. Dkt. No. 16. (Although the defendant reported hours for which payment is still outstanding for the period of March 1, 2016 through April 30, 2017, that period was not included in the audit.) The plaintiffs have submitted detailed documentation to support their requests for attorney fees and costs in the amount of \$7,182.25. Dkt. Nos. 14 and 15. Based on these records, the court is satisfied that the plaintiffs have met their *prima facie* burden, and will enter judgment in the requested amounts.

The court **GRANTS** the plaintiffs' motion for default judgment. The court **ORDERS** that the defendant shall pay to the plaintiffs the total amount of \$399,829.51, which includes contributions, delinquent payment assessments, interest and attorneys' fees and costs, plus post-judgment interest on that

amount at the rate required by 28 U.S.C. §1961. The judgment does not include the periods not previously audited by the plaintiffs, including the period of March 1, 2016 through the present.

Dated in Milwaukee, Wisconsin this 31st day of August, 2017.

BY THE COURT:

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge